

Adopted	Rejected
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COMMITTEE REPORT

YES:	15
NO:	4

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1293, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

1 Page 8, between lines 26 and 27, begin a new paragraph and insert:
 2 "SECTION 8. IC 6-3.1-32.5 IS ADDED TO THE INDIANA CODE
 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2008]:
 5 **Chapter 32.5. Property Maintenance Credit**
 6 **Sec. 1. As used in this chapter, "pass through entity" means:**
 7 **(1) a corporation that is exempt from the adjusted gross**
 8 **income tax under IC 6-3-2-2.8(2);**
 9 **(2) a partnership;**
 10 **(3) a limited liability company; or**
 11 **(4) a limited liability partnership.**
 12 **Sec. 2. As used in this chapter, "PMA certification" means a**
 13 **certification received from a municipality under IC 36-7-35 for**
 14 **qualified expenditures made on property in a property**
 15 **maintenance area.**

1 **Sec. 3. As used in this chapter, "PMA ordinance" means an**
 2 **ordinance adopted by the fiscal body of a municipality under**
 3 **IC 36-7-35.**

4 **Sec. 4. (a) As used in this chapter, "property" means a building**
 5 **or structure:**

6 **(1) assessed as real property under IC 6-1.1-4; and**

7 **(2) listed in a PMA ordinance.**

8 **(b) The term does not include land.**

9 **Sec. 5. As used in this chapter, "property maintenance area"**
 10 **means an area established by a municipality under IC 36-7-35-9.**

11 **Sec. 6. As used in this chapter, "qualified expenditure" means**
 12 **an expenditure made by a taxpayer for maintenance activities that**
 13 **qualify the taxpayer for a credit under this chapter as determined**
 14 **under a PMA ordinance adopted under IC 36-7-35-9.**

15 **Sec. 7. As used in this chapter, "state tax liability" means a**
 16 **taxpayer's total tax liability incurred under IC 6-3-1 through**
 17 **IC 6-3-7 (the adjusted gross income tax), as computed after the**
 18 **application of all credits that under IC 6-3.1-1-2 are to be applied**
 19 **before the credit provided by this chapter.**

20 **Sec. 8. As used in this chapter, "taxpayer" means an individual,**
 21 **a corporation, an S corporation, a partnership, a limited liability**
 22 **company, a limited liability partnership, a nonprofit organization,**
 23 **or a joint venture.**

24 **Sec. 9. A taxpayer that has received a PMA certification is**
 25 **entitled to a credit against the taxpayer's state tax liability equal**
 26 **the lesser of:**

27 **(1) fifty percent (50%) of the qualified expenditures certified**
 28 **in the PMA certification; or**

29 **(2) one thousand five hundred dollars (\$1,500).**

30 **Sec. 10. In the case of a husband and wife who:**

31 **(1) own property jointly; and**

32 **(2) file separate tax returns;**

33 **the husband and wife may take the credit permitted under this**
 34 **chapter in equal shares or one (1) spouse may take the whole**
 35 **credit.**

36 **Sec. 11. (a) If a pass through entity is entitled to a credit under**
 37 **this chapter but does not have state tax liability against which the**
 38 **tax credit may be applied, a shareholder, partner, or member of**

1 the pass through entity is entitled to a tax credit equal to:

2 (1) the tax credit determined for the pass through entity for
3 the taxable year; multiplied by

4 (2) the percentage of the pass through entity's distributive
5 income to which the shareholder, partner, or member is
6 entitled.

7 (b) The credit provided under subsection (a) is in addition to a
8 tax credit to which a shareholder, partner, or member of a pass
9 through entity is otherwise entitled under this chapter. However,
10 a pass through entity and a shareholder, partner, or member of the
11 pass through entity may not claim more than one (1) credit for the
12 same maintenance activity.

13 Sec. 12. To obtain a credit under this chapter, a taxpayer must
14 claim the credit on the taxpayer's annual state tax return or
15 returns in the manner prescribed by the department of state
16 revenue. The taxpayer shall submit to the department of state
17 revenue all information that the department of state revenue
18 determines is necessary for the calculation of the credit provided
19 by this chapter. The taxpayer shall forward a copy of any
20 information provided to the department of state revenue under this
21 section to the municipality that provided the taxpayer's PMA
22 certification under IC 36-7-35.

23 Sec. 13. The department shall forward to each municipality that
24 has adopted a PMA ordinance the total amount of all tax credits
25 awarded under this chapter during the taxable year.

26 Sec. 14. The department may adopt rules under IC 4-22-2 to
27 carry out this chapter.

28 SECTION 9. IC 6-3.5-6-17, AS AMENDED BY P.L.224-2007,
29 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2008]: Sec. 17. (a) Revenue derived from the imposition of
31 the county option income tax shall, in the manner prescribed by this
32 section, be distributed to the county that imposed it. The amount that
33 is to be distributed to a county during an ensuing calendar year equals
34 the amount of county option income tax revenue that the department,
35 after reviewing the recommendation of the budget agency, determines
36 has been:

37 (1) received from that county for a taxable year ending in a
38 calendar year preceding the calendar year in which the

determination is made; and
(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;
as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), (e), ~~and~~ (f), **and (g)**. The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution. The department shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter. This information must be certified to the county auditor and to the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter may be used only as specified in those provisions.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the

recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that:

(1) initially imposed the county option income tax; or

(2) increases the county option income tax rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) This subsection applies in the year a county initially imposes a tax rate under section 30 of this chapter. Notwithstanding any other provision, the department shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 30 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 30 of this chapter; multiplied by

(2) the following:

(A) In a county containing a consolidated city, one and five-tenths (1.5).

(B) In a county other than a county containing a consolidated city, two (2).

(g) If one (1) or more municipalities in a county have established a property maintenance area under IC 36-7-35, the department shall reduce the county's annual certified distribution by an amount equal to the total amount of credits awarded under IC 6-3.1-32.5 with respect to qualified expenditures certified in a property maintenance area in the county in the preceding calendar year.

~~(g)~~ **(h)** One-twelfth (1/12) of each adopting county's certified

distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

~~(h)~~ (i) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

~~(i)~~ (j) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 10. IC 6-3.5-6-18, AS AMENDED BY P.L.224-2007, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

- (1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;
- (2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b);
- (3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;
- (4) make payments permitted under IC 36-7-15.1-17.5;
- (5) make payments permitted under subsection (i);
- (6) make distributions of distributive shares to the civil taxing units of a county; and
- (7) make the distributions permitted under sections 27, 28, 29, 30, 31, 32, and 33 of this chapter.

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain:

- (1) the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (i), IC 36-7-15.1-17.5,

1 IC 36-8-15-19(b), and IC 36-9-4-42 from the county's certified
2 distribution for that same calendar year; and

3 (2) the amount of an additional tax rate imposed under section 27,
4 28, 29, 30, 31, 32, or 33 of this chapter.

5 The county auditor shall distribute amounts retained under this
6 subsection to the county.

7 (d) All certified distribution revenues that are not retained and
8 distributed under subsections (b) and (c) shall be distributed to the civil
9 taxing units of the county as distributive shares.

10 (e) **Subject to subsection (j)**, the amount of distributive shares that
11 each civil taxing unit in a county is entitled to receive during a month
12 equals the product of the following:

13 (1) The amount of revenue that is to be distributed as distributive
14 shares during that month; multiplied by

15 (2) A fraction. The numerator of the fraction equals the allocation
16 amount for the civil taxing unit for the calendar year in which the
17 month falls. The denominator of the fraction equals the sum of the
18 allocation amounts of all the civil taxing units of the county for
19 the calendar year in which the month falls.

20 (f) The department of local government finance shall provide each
21 county auditor with the fractional amount of distributive shares that
22 each civil taxing unit in the auditor's county is entitled to receive
23 monthly under this section.

24 (g) Notwithstanding subsection (e) **and subject to subsection (j)**,
25 if a civil taxing unit of an adopting county does not impose a property
26 tax levy that is first due and payable in a calendar year in which
27 distributive shares are being distributed under this section, that civil
28 taxing unit is entitled to receive a part of the revenue to be distributed
29 as distributive shares under this section within the county. The
30 fractional amount such a civil taxing unit is entitled to receive each
31 month during that calendar year equals the product of the following:

32 (1) The amount to be distributed as distributive shares during that
33 month; multiplied by

34 (2) A fraction. The numerator of the fraction equals the budget of
35 that civil taxing unit for that calendar year. The denominator of
36 the fraction equals the aggregate budgets of all civil taxing units
37 of that county for that calendar year.

38 (h) If for a calendar year a civil taxing unit is allocated a part of a

county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(i) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter (other than revenues attributable to a tax rate imposed under section 30, 31, or 32 of this chapter) to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.

(j) If a municipality in a county has established a property maintenance area under IC 36-7-35, the county auditor shall reduce the municipality's monthly allocation determined under subsection (e) or (g) by an amount equal to the total amount of credits awarded under IC 6-3.1-32.5 with respect to qualified expenditures certified in a property maintenance area in the municipality in the preceding calendar year divided by twelve (12).

SECTION 11. IC 36-7-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 35. Property Maintenance Areas

Sec. 1. As used in this chapter, "landlord" has the meaning set forth in IC 32-31-3-3.

Sec. 2. As used in this chapter, "maintenance activity" means the remodeling, repair, or improvement of property as defined by a municipality in a PMA ordinance adopted under section 9 of this chapter.

Sec. 3. As used in this chapter, "PMA certification" means a certification provided under section 9 of this chapter for qualified expenditures made on property in a property maintenance area.

Sec. 4. As used in this chapter, "PMA ordinance" means an ordinance adopted by the fiscal body of a municipality under

1 section 9 of this chapter.

2 Sec. 5. (a) As used in this chapter, "property" means a building
3 or structure:

4 (1) assessed as real property under IC 6-1.1-4; and

5 (2) listed in a PMA ordinance.

6 (b) The term does not include land.

7 Sec. 6. As used in this chapter, "property maintenance area"
8 means an area established by a municipality under section 9 of this
9 chapter.

10 Sec. 7. As used in this chapter, "qualified expenditure" means
11 an expenditure made by a taxpayer for maintenance activities that
12 qualify the taxpayer for a credit under IC 6-3.1-32.5 as determined
13 under a PMA ordinance.

14 Sec. 8. As used in this chapter, "residentially distressed area"
15 means an area:

16 (1) that has a significant number of:

17 (A) dwellings (as defined in IC 6-1.1-20.9-1) within the area
18 that are:

19 (i) not permanently occupied;

20 (ii) subject to an order issued under IC 36-7-9; or

21 (iii) evidencing significant building deficiencies; or

22 (B) vacant parcels of real property (as defined by
23 IC 6-1.1-1-15); or

24 (2) that has experienced a net loss in the number of dwellings
25 (as defined in IC 6-1.1-20.9-1).

26 Sec. 9. The fiscal body of a municipality located in a county that
27 imposes a county option income tax under IC 6-3.5-6 may adopt an
28 ordinance establishing a property maintenance area to provide
29 certification of qualified expenditures on property in the property
30 maintenance area. The ordinance shall be referred to as a PMA
31 ordinance. The boundaries of a property maintenance area may
32 not exceed five percent (5%) of the total land area of the
33 municipality. The property maintenance area established under
34 this section must be either:

35 (1) a residentially distressed area; or

36 (2) an area:

37 (A) that contains the types of property listed or defined in
38 the PMA ordinance; and

1 **(B) where the median assessed value of each type of**
 2 **property under clause (A) within the property**
 3 **maintenance area does not exceed the median assessed**
 4 **value for that type of property throughout the**
 5 **municipality.**

6 **Sec. 10. A PMA ordinance adopted under section 9 of this**
 7 **chapter must be in effect for at least one (1) year and not more**
 8 **than ten (10) years and must include the following:**

9 **(1) The geographic boundaries of the property maintenance**
 10 **area.**

11 **(2) A list or definition of:**

12 **(A) the types of property; and**

13 **(B) the maintenance activities;**

14 **that may entitle a taxpayer to a credit under IC 6-3.1-32.5.**

15 **(3) The eligibility qualifications for a contractor to perform**
 16 **maintenance activities within the property maintenance area.**

17 **(4) The criteria for a landlord to be eligible for a PMA**
 18 **certification.**

19 **(5) The amount of the qualified expenditures that may be**
 20 **certified under this chapter.**

21 **Sec. 11. The list or definition of maintenance activities**
 22 **determined by the municipality under section 10(2) of this chapter**
 23 **may include installing, repairing, or upgrading:**

24 **(1) roofing;**

25 **(2) siding;**

26 **(3) a furnace;**

27 **(4) a window or windows;**

28 **(5) paint;**

29 **(6) a foundation;**

30 **(7) electrical wiring; or**

31 **(8) plumbing.**

32 **Sec. 12. The eligibility qualifications established under section**
 33 **10(3) of this chapter:**

34 **(1) may not prohibit or disallow certification of qualified**
 35 **expenditures made by the owner of property for maintenance**
 36 **activities performed by the owner on the property if all other**
 37 **requirements and qualifications are satisfied for obtaining a**
 38 **PMA certification under this chapter; and**

1 (2) may require a contractor to submit to the fiscal body of
2 the municipality:

3 (A) proof that the contractor holds a valid contractor's
4 license;

5 (B) any complaints filed against the contractor with a
6 better business bureau or a federal, state, or local unit of
7 government; and

8 (C) financial statements or business plans of the
9 contractor.

10 Sec. 13. The criteria established under section 10(4) of this
11 chapter must require a landlord to:

12 (1) report any violations relating to any health or housing
13 codes applicable to any property in which the landlord has an
14 interest;

15 (2) submit a plan, before receiving a PMA certification under
16 this chapter, to correct all violations reported under
17 subdivision (1); and

18 (3) repay to the state the amount of any state tax credits
19 awarded under IC 6-3.1-32.5, if the landlord does not correct
20 all violations reported under subdivision (1) within a
21 reasonable time, as determined by the municipality.

22 Sec. 14. If a person:

23 (1) makes a qualified expenditure on the person's property in
24 a property maintenance area; and

25 (2) meets all the other requirements set forth in the PMA
26 ordinance adopted by the municipality where the person's
27 property is located;

28 the person is entitled to a PMA certification under this chapter.

29 Sec. 15. If a municipality adopts a PMA ordinance, the
30 municipality shall forward:

31 (1) to the department of state revenue any information the
32 department determines is necessary to reduce the certified
33 distribution amount determined under IC 6-3.5-6-17 for the
34 county in which the municipality is located; and

35 (2) to the county auditor of the county in which the
36 municipality is located any information the county auditor
37 determines is necessary to reduce the amount of the
38 municipality's allocation determined under IC 6-3.5-6-18."

Page 8, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE JANUARY 1, 2008] **(a) This SECTION applies to a taxpayer notwithstanding the following:**

(1) IC 6-1.1-3-7.5.

(2) IC 6-1.1-10-31.1.

(3) IC 6-1.1-11.

(4) 50 IAC 4.2-2.

(5) 50 IAC 4.2-3.

(6) 50 IAC 4.2-11.

(7) 50 IAC 4.2-12.

(8) 50 IAC 4.2-15-11.

(9) 50 IAC 16.

(b) This SECTION applies:

(1) to an assessment date occurring after December 31, 2003, and before January 1, 2007; and

(2) for property taxes first due and payable after December 31, 2004, and before January 1, 2008.

(c) As used in this SECTION, "taxpayer" refers to a taxpayer who:

(1) filed an original personal property tax return under IC 6-1.1-3-7 for an assessment date described in subsection

(b); and

(2) submits for filing, after December 31, 2007, and before March 1, 2008, an amended personal property tax return and a Form 103-W for an assessment date described in subsection (b).

(d) An amended personal property tax return submitted for filing by a taxpayer in person or in any other manner consistent with IC 6-1.1-36-1.5 for an assessment date described in subsection (b):

(1) must be allowed; and

(2) is considered to have been timely filed.

(e) A taxpayer is entitled to the exemptions for tangible personal property claimed on:

(1) Schedule B of the amended returns; and

(2) each Form 103-W filed with the amended returns; filed under this SECTION.

(f) A notice of increased assessed value issued by a township

1 **assessor with respect to tangible personal property that is subject**
 2 **to an amended return filed under this SECTION is considered**
 3 **withdrawn and nullified.**

4 **(g) IC 6-1.1-37-7, IC 6-1.1-37-9, and IC 6-1.1-37-10 do not apply**
 5 **to any additional personal property taxes owed by a taxpayer as**
 6 **the result of filing an amended return under this SECTION.**

7 **(h) A taxpayer is not entitled to a refund with respect to an**
 8 **amended return filed by a taxpayer under this SECTION.**

9 **(i) This SECTION expires July 1, 2009.**

10 **SECTION 14. [EFFECTIVE JULY 1, 2008] IC 6-3.1-32.5, as**
 11 **added by this act, applies to taxable years beginning after July 1,**
 12 **2008."**

13 Renumber all SECTIONS consecutively.
 (Reference is to HB 1293 as introduced.)

and when so amended that said bill do pass.

Representative Crawford